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allen Eingaben und Zahlungen angeben!**Prüfungsantrag, Einzahlungstag am****Eingabe vom 21. November 2005****eingegangen am 21. November 2005**

Die weitere Prüfung der oben genannten Patentanmeldung hat zu dem nachstehenden Ergebnis geführt.

Zur Äußerung wird eine Frist von

2 Monat(en)

gewährt. Die Frist beginnt an dem Tag zu laufen, der auf den Tag des Zugangs des Bescheids folgt.

Für Unterlagen, die der Äußerung gegebenenfalls beigelegt werden (z. B. Beschreibung, Beschreibungsteile, Patentansprüche, Zeichnungen), sind je zwei Ausfertigungen auf gesonderten Blättern erforderlich. Die Äußerung selbst wird nur in einfacher Ausfertigung benötigt.

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- ☐ In diesem Bescheid ist/sind folgende Entgegenhaltung(en) erstmalig genannt. (Bei deren Nummerierung gilt diese auch für das weitere Verfahren):
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Der Anmelder einer mit Wirkung für die Bundesrepublik Deutschland eingereichten Patentanmeldung kann eine Gebrauchsmusteranmeldung, die den gleichen Gegenstand betrifft, einreichen und gleichzeitig den Anmeldetag der früheren Patentanmeldung in Anspruch nehmen. Diese Abzweigung (§ 5 Gebrauchsmustergesetz) ist bis zum Ablauf von 2 Monaten nach dem Ende des Monats möglich, in dem die Patentanmeldung durch rechtskräftige Zurückweisung, freiwillige Rücknahme oder Rücknahmefiktion erledigt, ein Einspruchsverfahren abgeschlossen oder - im Falle der Erteilung des Patents - die Frist für die Beschwerde gegen den Erteilungsbeschluss fruchtlos verstrichen ist. Ausführliche Informationen über die Erfordernisse einer Gebrauchsmusteranmeldung, einschließlich der Abzweigung, enthält das Merkblatt für Gebrauchsmusteranmelder (G 6181), welches kostenlos beim Patent- und Markenamt und den Patentinformationszentren erhältlich ist.

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**TRANSLATION OF
OFFICIAL COMMUNICATION**

P31954

Issued: January 09, 2005
Application No.: 100 41 049.9-53
Applicant: Mold-Masters Ltd.
Response due by: March 25, 2006
Our ref.: P31954kko
Date: February 06, 2006

I.

The further examination is based on new claims 1 to 15 of November 21, 2005, received on November 21, 2005.

Remarks:

The basic doubts (cf. official communication of May 24, 2005, section III.13) regarding patent claim 13 directed towards a data carrier are no longer maintained. This patent claim would only be allowable if the method stored was novel or based on an inventive step (cf. the following section III.13). Patent claim 1 directed towards this method is, however, not allowable (cf. the following section III.1-12).

II.

The claims on file differ from the set of patent claims of March 20, 2002 by the following facts:

- a) Instead of "automatisch" the word "automatisiert" is used.
- b) Patent claim 1: The dimensioning of the injection molding system, the compilation of components, the generation and the output of a time schedule and the generation and output of an offer does not only take place depending on a user input but also depending on definitions of manufacturers.

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- c) Patent claim 1 first paragraph: it is supplemented that the automated configuration and manufacturing system consists of several subsystems.
- d) Patent claim 1 first dash: It is supplemented that the configuration is carried out by a configuration subsystem.
- e) Patent claim 1 first dash: It is supplemented that the configuration is carried out with a configuration subsystem on computer network basis.
- f) Patent claim 1, second dash: It is supplemented that the generation and the output of the material list is carried out by a processing subsystem.
- g) Patent claim 1 third and fourth dash: it is supplemented that the generation and the output of the schedule and the offer is carried out by a business subsystem.
- h) Patent claim 1 second to fourth dash: it is supplemented that the processing subsystem and the business sub-system receives information from the configuration subsystem.

Regarding a): the change does not change anything about the result. If a method was automated, the process ran automatically.

Regarding b): The supplement is already included in the feature of the set of patent claims of March 20, 2002 or it is implicitly included therein, since the components stored in the configuration and manufacturing system (patent claim 1 of March 20, 2002, first dash) of course include the component data of the manufacturer. A material list (patent claim 1 of March 20, 2002, second dash) can of course only be generated by the aid of information of the manufacturer. A time schedule for the manufacture (patent claim 1 of March 20, third dash) can of course only be generated on the basis of the times mentioned by the manufacturer, and an offer (patent claim 1 of March 20, 2002, fourth dash) can of course only be generated on the basis of the process mentioned by the manufacturer.

Regarding c): The expression "configuration and manufacturing system" (cf. patent claim 1 of March 20, 2002, first paragraph) includes the word system (Greek for structure, entity, formation) so that the configuration and manufacturing system is a structure whose portions, i.e. subsystems are related to one another in a manner that they form a unit (as a whole). Thus, the addition is already included in the feature of patent claim 1 of March 20, 2002.

Regarding d): According to patent claim 1 of March 20, 2002 (first paragraph), the method for configuring injection molding systems is carried out by means of a configuration and manufacturing system. Designating the part of the system, i.e. said subsystem, by means of which configuration is carried out, as configuration subsystem is therefore not a new, technical feature but the awarding of a name.

Regarding e): If a system consists of portions, i.e. of subsystems, if these portions are related to one another in a manner that they form a unit (a whole), and if the method shall be carried out by means of an automated system, this inevitably means that these portions, i.e. subsystems, are connected to one another via a network. The addition is therefore not a new feature but already included in the other features.

Regarding f) and g): The designation of members, i.e. subsystems, of the configuration and manufacturing system is not a new, technical feature and not a new, technical measure and is therefore irrelevant.

Regarding h): It was found in e) that in patent claim 1 of March 20, 2002 it is already included that the configuration and manufacturing system consists of portions, i.e. of subsystems, which are connected to one another through a network. The fact that within the framework of an automated method information is exchanged via the network is therefore self-evident, and the fact that the information comes from the subsystem in which the information is stored and is transmitted to where it is required is also self-evident. These additions are therefore implicitly included in patent claim 1 of March 20, 2002 and these features are not new.

Thus, the patent claims on file differ from the patent claims of March 20, 2002 only by additions whose content does not exceed the subject matter of the patent claims of March 20, 2002.

It is therefore found that the application was maintained with patent claims having an identical content.

III.1-12

The subject matter of patent claim 1 on file could be derived on priority day of the patent application on file in an obvious manner from the prior art.

As mentioned in above section II, patent claim 1 was maintained in a manner having an identical content, and since the application has not commented on the official communication of May 24, 2005, section III.1-12, it is discussed once again, since it is very important.

Claim 1 claims:

- a) A "method for configuring an injection molding system in real time"
- b) "by means of an automated configuring and manufacturing system consisting of several subsystems, on which the following method steps are carried out:"
- c) detecting "user inputs and manufacturer-specific parameters",
- d) "compiling" ("automated configuration ... dimensioning") data ("injection molding system") from a database ("manufacturer-specific components stored in the configuration and manufacturing system ... with a configuration subsystem on computer network basis"), in that the data assigned to the "user inputs and manufacturer-specific parameters" are taken out of the database,
- e) "automated generation of a bill of material ... in response to the configured injection molding system with a processing subsystem, which receives information from the configuring subsystem",
- f) and "automated output of the bill of material to the user",
- g) "automated generation of a time schedule for the manufacture of the injection molding system ... depending on the user input and manufacturer-specific

parameters with a business subsystem which receives information from the configuring subsystem"

- h) and "automated output of the time schedule",
- i) "automated preparation of an offer ... depending on a user input and manufacturer-specific parameters with the business subsystem which receives information from the configuring subsystem"
- j) and "automated output of the offer to the user".

Regarding b): If the method steps are carried out by means of an automated configuration and manufacturing system on computer network basis, i.e. by means of a linked computer system, the computer system and the computer network are used according to their determined use. This cannot justify an inventive step.

Regarding c): "detection of user inputs and manufacturer-specific parameters". This is a user interface by means of which data is input. Non-technical aspects, i.e. the claimed user interface, are irrelevant for the evaluation of the inventive step (cf. "Elektronischer Zahlungsverkehr" BPatG decision of February 10, 2005, 17 W (pat) 46/02, e.g. section II. 3.1). Irrespective thereof it is known from any computer user from every day routine that data can be input by a user interface.

Regarding d) "compilation of data from a database". This is the access on a database. Non-technical aspects, i.e. the access on a database claimed in this case, is irrelevant for the evaluation of the inventive step (c.f. "Elektronischer Zahlungsverkehr" BPatG decision of February 10, 2005, 17 W (pat) 46/02, e.g. section II. 3.1). Irrespective thereof it is known to any computer user from every day routine that databases can be accessed.

Regarding e), g) and j) "automated preparation of a bill of materials / a time schedule / an offer": This is a program module by the aid of which second data (e.g. materials, prices, times) may be searched from a database by means of first data (user inputs and manufacturer-specific parameters). These are non-technical aspects that are irrelevant for evaluation of inventive step (c.f. "Elektronischer Zahlungsverkehr" BPatG decision of February 10, 2005, 17 W (pat) 46/02, e.g. section II. 3.1). Irrespective thereof, this

activity is known to anyone from every day routine (searching for ingredients from a cook book, planning the daily routine, searching for prices).

Regarding f), l) and k) "automated output": The output by means of a printer or a monitor is a determined use of the printer or of the monitor and cannot justify an inventive step.

Thus, patent claim 1 is not allowable, since its subject matter is not based on an inventive step.

The arguments of the applicant are not convincing.

The applicant was informed of a prior art with official communication of April 05, 2001 and May 24, 2005 (references 1 and 5 and particularly official communication of May 24, 2005, section III.1-12, first part). According to PatV of September 01, 2003 § 10 (2) 3. and 6. Schulte PatG, 7th edition 82005) § 1 marginal note 69, the problem on which the invention is based results from the disadvantages of the prior art. In the response of November 21, 2005 it remains unsolved which disadvantages the applicant finds in the known prior art and which object shall result therefrom that is to be solved by the subject matter of claim 1 (cf. Schulte PatG, 7th edition 2005), § 1 marginal note 62).

Although the applicant does not comment on the official communication of May 24, 2005 section III.1-12 first part, but the applicant emphasizes (cf. response of November 21, 2005 section 4. Inventive step) that the automated injection molding configuration and manufacturing system is configured depending on user inputs and manufacturer-specific parameters, and that an automated injection molding configuration and manufacturing system is not described in any of references D4 and D5.

- I) The fact that a system consists of subsystems is known (cf. the above section II. "regarding c)"). It is also not based on an inventive step to state the definition of the expression "system".
- II) The fact that in an automated system whose parts, i.e. subsystems, communicate with one another is self-evident (cf. the above section II. "regarding e) and "regarding h)") and cannot justify an inventive step.

- III) The fact that a system is configured depending on user inputs and manufacturer-specific parameters is self-evident (cf. the above section II. "Regarding c)" and cannot justify an inventive step.
- IV) The fact that the method steps are carried out by means of an automated configuration and manufacturing system, i.e. by means of a computer system, is a determined use of the computer system, which cannot justify an inventive step. In this respect it is irrelevant that an automated injection molding configuration and manufacturing system is not described in references 4 or 5.

Regarding the response section III. Patentability 1. Patentability of November 21, 2005 it is pointed to the fact that it is not a sufficient criterion if a work preparation for a technical method is concerned. Example: The transport of semi-finished products to the manufacturer is a work preparation, which, however, does not change anything about the fact that this transport belongs to the field of logistics. Otherwise it was explained in detail in above section III-1-12 that only the use of the computer system has a technical character. Whether the objective problem on which the subject matter of the application is based – i.e. not the problem conceived by the applicant or really existing (e.g. to the developmental personnel), is questionable.

A further reaching examination of the problem is renounced, since in the meantime it was found for the third time that the subject matter of the application is not based on an inventive step.

Dependent claims 2 to 12 must be cancelled together with claim 1.

III.13

Patent claim 13 is formulated as an alternative independent claim and is directed towards a computer-readable medium on which instructions are stored, which effect that a process unit carries out the method according to one of claims 1 to 12.

Patent claim 13 includes mere repetitions of statements of effect of the measures mentioned in patent claims 1 to 12 in the form of a reference and does therefore not add any new facts to the subject matter of patent claim 1.

Thus, patent claim 13 is not allowable due to the reasons mentioned in section III.1-12.

III. 14/15

Patent claim 14 is formulated as an alternative independent claim and is directed towards an automated real time configuration and manufacturing system.

Patent claim 14 only includes the features that are naturally required for carrying out the measures mentioned in patent claim 1 and does not add any additional facts to the subject matter of patent claim 1.

Thus, patent claim 14 is not allowable due to the reasons mentioned in above section III-1-12.

Since claim 14 cannot be allowed, dependent claim 15 can also not be allowed.

IV.

It is found:

- a) It took a lot of time and effort to formulate new supplements with the result that the patent claims on file and the patent claims of November 21, 2005 are identical, which, however, cannot justify an inventive step.
- b) It is emphasized that the use claimed differs from the prior art, although the claimed use is a determined use, which cannot justify an inventive step (cf. the above section III.1-12 I)).

In this respect and particularly because of the method consisting of non-technical steps, some examples that are promising are mentioned which shall elucidate the principle of an inventive step:

Regarding "detection of user inputs and manufacturer-specific parameters": a device in which the input is not carried out by means of a keyboard or a mouse, but controlled by the mind.

Regarding "computer network basis": A new transmission technique which enables a transmission of the signals with over-light speed.

Regarding "database": a new storage that is especially small and allows especially fast access.

Regarding "output": A printer or monitor which is based on a new technology.

It can also not be seen where the application exceeds in an inventive manner the prior art and the knowledge of the average technically skilled person.

V.

Due to this factual and legal situation, success can still not be promised to the application.

Thus, a patent cannot be granted as requested by the applicant, but the rejection of the application is very likely.

If the applicant still finds an inventive surplus- compared to the prior art – by means of which a grant of patent can be substantiated, it is requested,

- a) to explain this in detail,

- b) to file a new, clarified set of patent claims, whose independent patent claims include the technical features and measures necessary for a solution and which reveal a sufficient inventive distance to the prior art,
- c) starting out from the known prior art, the object on which the subject matter of the application is based must be cited, and
- d) features and measures possibly newly included in the patent claims must be verified as being disclosed in the original documents as being disclosed in a manner essential for the invention.

If, however, the application is maintained with unchanged or substantially identical claims, the rejection of the application must be expected within the set period.

If it is not intended to comment on this matter, please informally confirm receipt of this official communication.

Examiner for Class G 06

signature

Dipl.-Ing. Heckner

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